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Date:

May 11, 2011

Legend

Distributing =

Shareholder =

LLC 1 =

LLC 2 =

LLC 3 =

LLC 4 =

LLC 5 =

LLC 6 =

Sub 1 =

Year 1 =

Year 2 =

State X =

a% =b% =c% =d% =

Business 1 =

Business 2 =

Business 3 =

Business 4 =

x =

Dear :

This letter responds to your letter dated November 12, 2010 (the "Ruling Request"), submitted on behalf of Distributing and Shareholder, requesting rulings on certain federal income tax consequences of a series of proposed transactions. Additional information was received subsequently. The information submitted for consideration is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. In particular, this office has not reviewed any information pertaining to, and has made no

determination regarding, whether the proposed transaction: (i) satisfies the business purpose requirement of §1.355-2(b) of the Income Tax Regulations; (ii) is used principally as a device for the distribution of the earnings and profits of the distributing corporation and/or the controlled corporations (see §355(a)(1)(B) of the Internal Revenue Code (the "Code") and §1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporations (see §355(e) and §1.355-7).

Summary of Facts

Distributing is a State X corporation organized in Year 1. Distributing has one class of common and two classes of preferred stock outstanding. Distributing's preferred stock is owned by individuals, none of whom are 5-percent shareholders. Shareholder, a State X corporation organized in Year 2, owns all of the outstanding common stock of Distributing.

Shareholder is the common parent of an affiliated group of corporations that files a consolidated U.S. federal income tax return. In addition to wholly owning all of the common stock of Distributing, Shareholder wholly owns LLC 1, LLC 2, LLC 3, and LLC 4. Each of LLC 1, LLC 2, LLC 3, and LLC 4 is disregarded as an entity separate and apart from its owner for federal income tax purposes under § 301.7701-3 of the Procedure and Administration Regulations (a "disregarded entity").

Distributing owns a% of LLC 6, b% of Sub 1, and all of LLC 5, a disregarded entity. LLC 3 owns c% of LLC 6. LLC 6 owns d% of Sub 1. Distributing is engaged in Business 1, Business 2, Business 3, and Business 4. Distributing has submitted financial information which indicates that Business 1 and Business 2 has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

Proposed Transaction

For what are represented as valid business reasons, Distributing proposes the following transaction (the Proposed Transaction):

- (i) Distributing will form Controlled in State X. Controlled will have one class of common stock outstanding, all of which will be owned directly by Distributing.
- (ii) Distributing will form Transitory LLC, a State X limited liability company that will be a disregarded entity. Distributing will own all of Transitory LLC's membership interests.

- (iii) Distributing will transfer all of the assets related to the conduct of Business 2 to Transitory LLC.
- (iv) Transitory LLC will borrow cash from an external lender. The external lender will be aware of the proposed transaction and the terms of the debt will likely consider LLC 2's credit rating, existing assets and debt, as well as the assets it will acquire in step (xii) below. This should result in more favorable terms than if external lender was only considering Transitory LLC's history.
- (v) Transitory LLC will distribute the borrowed cash to Distributing. Distributing will use the cash received from Transitory LLC to repay some of its historical debt associated with the Business 2 assets.
- (vi) Distributing will contribute all of its interest in Transitory LLC, Sub 1, LLC 5, and LLC 6 to Controlled (the Contribution) in exchange for stock of Controlled and the assumption by Controlled of the liabilities associated with Business 2 and Business 3.
- (vii) Distributing will distribute all the stock of Controlled to Shareholder (the "Distribution").
- (viii) Shareholder will contribute LLC 2 to Controlled.
- (ix) Shareholder will contribute LLC 1 and LLC 3 to Controlled.
- (x) Controlled will contribute LLC 5 to LLC 1.
- (xi) Controlled will contribute LLC 6 and Sub 1 to LLC 3.
- (xii) Transitory LLC will merge with and into LLC 2, with LLC 2 surviving.

Following the proposed transaction, Distributing will be engaged in Business 1 and Controlled will be engaged in Business 2, Business 3, and Business 4.

Representations

- (a) No part of the consideration to be distributed by Distributing will be received by Shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (b) The five years of financial information submitted on behalf of Business 1 is representative of its present operation and, with regard to such business, there have been no substantial operational changes since the date of the last financial statement submitted.

- (c) The five years of financial information submitted on behalf of Business 2 is representative of its present operation and, with regard to such business, there have been no substantial operational changes since the date of the last financial statement submitted.
- (d) Following the Distribution, Distributing and Controlled will each continue the active conduct of its business, independently and with its separate employees.
- (e) The Distribution is being carried out for the following corporate business purpose: Regulatory/Rate Making and Fit and Focus. The Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (f) The Distribution is not used principally for the distribution of the earnings and profits of Distributing or Controlled or both.
- (g) For purposes of §355(d), immediately after the Distribution, no person (determined after applying §355(d)(7)) will hold stock possessing fifty percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or fifty percent or more of the total value of all classes of Distributing stock, that was acquired by purchase (as defined in §§355(d)(5) and (8)) during the five-year period (determined after applying §355(d)(6)) ending on the date of the Distribution.
- (h) For purposes of §355(d), immediately after the Distribution, no person (determined after applying §355(d)(7)) will hold stock possessing fifty percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or fifty percent or more of the total value of all classes of Controlled stock, that was either (1) acquired by purchase (as defined in §§355(d)(5) and (8)) during the five-year period (determined after applying §355(d)(6)) ending on the date of the Distribution or (2) attributable to distributions on Distributing stock that were acquired by purchase (as defined in §§355(d)(5) and (8)) during the five-year period (determined after applying §355(d)(6)) ending on the date of the Distribution.
- (i) The Distribution is not part of a plan or series of related transactions (within the meaning of §1.355-7) pursuant to which one or more persons will acquire directly or indirectly equity representing a fifty percent or greater interest (within the meaning of §355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).
- (j) The total adjusted bases of the assets transferred to Controlled in the Contribution will equal or exceed the sum of (i) the total liabilities assumed (as

determined under § 357(d)) by Controlled and (ii) the total amount of any money and the fair market value of any other property (within the meaning of § 361(b)) received by Distributing and transferred to its creditors in connection with the reorganization.

- (k) The liabilities assumed (as determined under § 357(d)) by Controlled in the Contribution and the liabilities to which the assets transferred to Controlled in the Contribution are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (l) The total fair market value of the assets transferred to Controlled by Distributing in the Contribution will exceed the sum of (i) the amount of any liabilities assumed (as determined under § 357(d)) by Controlled in connection with the exchange, (ii) the amount of any liabilities owed to Controlled by Distributing that are discharged or extinguished in connection with the exchange, and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under §361(a) without the recognition of gain) received by Distributing in connection with the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the exchange.
- (m) No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution.
- (n) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (See §1.1502-13 and §1.1502-14 as in effect before the publication of T.D. 8597, 1995-32 I.R.B. 6, and as currently in effect; §1.1502-13 as published by T.D. 8597). Further, any excess loss account of a member in the stock of another member that is required to be taken into account by § 1.1502-19 will be included in income immediately before the transaction.
- (o) Payments made in connection with any continuing transactions between Distributing and Controlled following the Distribution will be for fair market value based on terms and conditions comparable to those that would be arrived at by the parties bargaining at arm's length.
- (p) No two parties to the Proposed Transaction are investment companies as defined in §§368(a)(2)(F)(iii) and (iv).

- (q) Immediately after the Distribution, neither Distributing nor Controlled will be a "disqualified investment corporation" as defined in §355(g)(2)(A).
- (r) Neither Business 1 or Business 2 nor control of an entity conducting these businesses will have been acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.

Rulings

1. Steps (iv) through (vi), only, of the Proposed Transaction will be treated, for federal tax purposes, as if: (1) Distributing will contribute all of its interest in Transitory LLC, Sub 1, LLC 5 and LLC 6 to Controlled (the Contribution) in exchange for stock of Controlled; (2) Controlled will borrow cash from external lender; (3) Controlled will distribute the borrowed cash to Distributing after the Contribution. All other steps in the Proposed Transaction will remain the same.
2. The Contribution, followed by the Distribution, will be a reorganization under §368(a)(1)(D). Distributing and Controlled will each be "a party to the reorganization" under §368(b).
3. Distributing will not recognize any gain or loss on the Contribution. Section 357(a) and § 361(a). Further, Distributing will not recognize income or gain upon the receipt of cash from Controlled (see Ruling 1), provided that Distributing distributes the entire amount of the cash to its shareholders or creditors within a x period beginning on the date of the Distribution under § 361(b)(1)(A) and (b)(3).
4. Controlled will not recognize any gain or loss upon its receipt of Distributing's interest in Transitory LLC, Sub 1, LLC 5, and LLC 6 from Distributing in the Contribution. Section 1032(a).
5. The basis of the assets received by Controlled in the Contribution will equal the basis of such assets in the hands of Distributing immediately prior to the Proposed Transaction. Section 362(b).
6. The holding period of each asset received by Controlled in the Contribution will include the holding period of such asset in the hands of Distributing. Section 1223(2).

7. No income, gain or loss will be recognized by Distributing on the Distribution. Section 361(c).
8. No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing's shareholders on the Distribution. Section 355(a)(1).
9. The holding period of the shares of Controlled Common Stock received by Shareholder in the Distribution will include the holding period of the shares of Distributing Common Stock with respect to which such shares of Controlled Common Stock were received. Section 1223(1).
10. The aggregate basis of the shares of Distributing stock and the Controlled stock held by Shareholder immediately after the Distribution will equal the aggregate basis of the shares of Distributing stock held by Shareholder immediately before the Distribution, allocated in proportion to the fair market value of the Distributing stock and the Controlled stock in accordance with §1.358-2(a)(2). Section 358(b)(2).
11. Earnings and profits, if any, will be allocated between Distributing and Controlled in accordance with §312(h) and §1.312-10(a).

Caveats

Except as expressly provided herein, no opinion is expressed about the tax treatment of the Proposed Transaction under other provisions of the Code or regulations, or about the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction not specifically covered by the above rulings. In particular, no opinion is expressed regarding: (i) whether the Distribution satisfies the business purpose requirement of §1.355-2(b); (ii) whether the Distribution is used principally as a device for the distribution of earnings and profits of Distributing and Controlled or both (see §355(a)(1)(B) and §1.355-2(d)); or (iii) whether the Distribution is part of a plan (or series of related transactions) under §355(e)(2)(A)(ii). Specifically, no opinion is expressed concerning the treatment of step (i) of the Proposed Transaction, described above.

Procedural Statements

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this ruling letter must be attached to any federal income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this ruling letter.

Under a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Mark S. Jennings
Branch Chief, Branch 1
Office of Associate Chief Counsel (Corporate)

cc: